USDA Foreign Agricultural Service
GAIN Report
Global Agricultural Information Network

Required Report - public distribution

Date: 7/17/2009
GAIN Report Number: HK 9016

Hong Kong

AGRICULTURAL BIOTECHNOLOGY ANNUAL

2009

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Report Highlights:
The Hong Kong Government (HKG) maintains a voluntary labeling policy for biotech food products and pledges to continue to promote its guidelines on voluntary labeling of genetically modified (GM) food. It makes no distinction between conventional and biotech foods. The HKG faces persistent pressure to impose a mandatory biotech labeling policy by "green" and consumer advocacy groups. In June 2009, the HKG introduced a bill to its Legislative Council for the implementation of the Cartagena Protocol on Biosafety. The bill is expected to be enacted in 2010, which will require all imports of Living Modified Organisms (LMOs) to fulfill specific documentation requirements and be subject random testing. In 2008, U.S. exports of agricultural and food products to Hong Kong totaled $1.85 billion. Of this total, the U.S. exported $7 million of soybeans and corn to Hong Kong.

Section I. Executive Summary:

Hong Kong's labeling policy of biotech foods has not changed in the last year, as Hong Kong continues to maintain a voluntary labeling policy. Hong Kong's food safety authority – Food and Environmental

Hygiene Department (FEHD) – advised the Legislative Council in July 2008 that there was no pressing need for mandatory labeling on biotech foods because of the lack of international consensus. It pledges to further promote the Guidelines on voluntary labeling of genetically modified (GM) food, which was first launched in July 2006. As a result, the Hong Kong Government (HKG) does not have any specific biotechnology regulations with regard to the labeling of biotech food products. The HKG makes no distinction between conventional and biotech foods. Thus, all are subject to the same food safety and labeling regulations.

The HKG is always under pressure by consumer advocacy groups like green peace and a number of HKG Legislative Council (Legco) members to impose a mandatory labeling law for biotech food products. The Legco passed a motion urging the Government to expeditiously establish a genetically modified food labeling system for prepackaged food products by adopting a "voluntary first, and then mandatory" approach in order to safeguard consumers' right to know and to choose in 2003. The motion, nonetheless, was not binding.

In 2008, Hong Kong ranked as the 7th largest market for U.S. high value food (HVF) exports with exports totaling $1.3 billion boasting a record growth of 67%. In the first 5 months of 2009, U.S. HVF exports to Hong Kong reached $539 million, representing a growth of 17% over the same period in 2008. In addition, Hong Kong's ranking moved up to the 5th largest U.S. export market for HVF exports during this period.

Cartagena Protocol

The HKG Environmental Protection Department introduced the Genetically Modified Organisms (Control of Release) Bill to the Legislative Council for vetting in June 2009. A special Committee has been set up to scrutinize the details of the Bill. HKG expects the Bill to be passed in 2010, which would enable the HKG to implement measures set forth under the Cartagena Protocol on Biosafety. The Bill, once enacted, may affect U.S. bulk agricultural commodities exports to Hong Kong because the proposed Bill has documentation requirements for imports and exports of Living Modified Organisms (LMOs) even if products are traded for food or feed, or for processing purposes. Traders will be required to provide information such as event code, scientific name, internet address of the Biosafety clearing House. In 2009, U.S. export of soybean and corn to Hong Kong totaled only $7 million. Once the Bill is enacted, all U.S. exports carrying LMOs must fulfill specific documentation requirements and suspected LMOs may be subject to random detection testings.

For LMOs with the intent to be released into the environment, importers are required to apply for prior approval. The impact on U.S. exports to Hong Kong is minimal in this aspect because both commercial

farming and field trials of scientific researches are limited in Hong Kong.

The following table summarizes U.S. agricultural exports to Hong Kong.

Products	**US$ million**	**% of U.S. total exports**	**Ranking (2009 Ranking)**
All Agricultural, Fish & Forestry	**1,853**	**1.43**	**12 (8)**
HS1005 Corn (Maize)	4.973	0.04	54 (45)
Soybeans	1.711	0.01	33 (40)
Sub-total	***6.68***		
All Consumer-Oriented food products	**1,307**	***3%***	**7(5)**

Source : World Trade Atlas – U.S. Department of Commerce, Bureau of Census

Section II. Biotechnology Trade and Production:

Hong Kong does not commercially produce any biotechnology crops, nor does it conduct field trials. Farming is insignificant in Hong Kong. Total land use for vegetables, flowers, field crops, and orchards are 320 hectares, 180 hectares, 20 hectares and 280 hectares respectively in Hong Kong. In 2008 agricultural production amounted to $88 million, comprising $34 million in crop production, $27 million in livestock production and $28 million in poultry production. Hong Kong's livestock and poultry industries continue to diminish, limiting future prospects for farming in Hong Kong.

In recent years, the HKG has promoted organic farming as a niche market for Hong Kong's Organic farmers compete to grow vegetables amidst the severe competition from lower priced conventional and organic imports from Mainland China. In an effort to promote this niche industry and support the development of organic farming, an organic certification, the Hong Kong Organic Resource Center (HKORC), was established in 2002. Since 2004, the HKORC has provided independent organic certification services to farmers and food processors. By the standard of HKORC, all certified organic products are GM free.

Hong Kong carries out research on biotech rice at the Chinese University of Hong Kong, although field trials are conducted in China. Professor Samuel Sun, in co-operation with the National China Hybrid Rice Research & Development Center, conducts research to improve the quality and nutritional value of super hybrid rice by utilizing transgenic plant production methods. According to Professor Sun, 50 percent of rice produced in China is of hybrid type, which has a yield that is 30 percent higher than conventional rice. Professor Sun's research project is to improve the lysine content of the super hybrid rice.

On the trade front, Hong Kong's import regulations regard biotech products as conventional products. Importers/exporters are not required to make any special declarations if products are of biotech origin. However, the few soybean users in Hong Kong require non-GM soybeans because of market-driven factors; for example, their processed products are exported to overseas markets demanding GM free ingredients. Buyers generally have a perception that all U.S. soybeans are of biotech origin. Some users of soybeans for processing report that Canadian Special Quality White Hilum (SQWH) grade soybean is popular among Hong Kong buyers. However importers claim that while SQWH soybeans are non-GM there is no identity preservation. In 2008, Hong Kong imported only 2 percent ($456,000) of its soybean demand from the United States while 89 percent ($19 million) was supplied by Canada.

Hong Kong is not a food aid recipient and is unlikely to be a food aid recipient in the future.

Section III. New Technologies:

Animal farming is insignificant in Hong Kong. There is no genetic engineering and cloning being done on Hong Kong's limited animal farms.

Presently, the HKG does not have any legislation in place related to the development and the import of these transgenic or cloned animals/products. In principle, they can be imported under the same conditions as conventional animal/products. Also, there are no labeling requirements for products from cloned/transgenic animals or from the progeny of these animals.

The HKG did not react to FDA's Risk Assessment on products from cloned animals and their progeny in January 2008. However, in December 2006 when FDA issued three documents on the safety of animal cloning: a draft risk assessment; a proposed risk management plan and a draft guidance for industry, the HKG immediately wrote to ATO enquiring about the U.S. control measures on production/exportation of meat and milk products from cloned animal, and whether any such product has been exported to Hong Kong. It specifically cited FDA's request in the proposed risk management plan for industry's voluntary moratorium on introducing products of cloned animals into commerce. While the HKG does not have any immediate plan to change their import policies on products for cloned animals, we expect that certain Legislative Council members, media and consumers group will press the HKG to look into the issue if products of cloned animals are exported to Hong Kong. The HKG may be sensitive to political pressure on this issue. We believe any likely new requirement would be to label the products as cloned on the grounds of consumers' right to know, as opposed to banning them.

With regard to the cloning animal technology, the HKG has no plans underway to conduct a risk assessment. However, the HKG is in the process of drafting a new piece of legislation which will regulate the importation of LMOs. Details will be given in the following section under Biotechnology Policy.

Section IV. Biotechnology Policy:

Presently, Hong Kong does not have any regulatory measures on biotech products. In the area of production or field-testing, there is no special legislation regulating biotech crops. There is no law prohibiting biotech crop plantation. According to Hong Kong's organic certification scheme, all organic products should not be genetically modified. The certification scheme, however, is voluntary and is not backed legislatively. However, the HKG has recently introduced the Genetically Modified Organisms (Control of Release) Bill, which will regulate biotech crops production when enacted.

Proposed Legislation for the Implementation of the Cartagena Protocol on Biosafety

In January 2009, the HKG notified the World Trade Organization of its intention to introduce legislation for the implementation of the Cartagena Protocol on Biosafety. The notification contained a consultation paper on the proposed legislation. The HKG Environment Bureau formally introduced the Genetically Modified Organisms (Control of Release) Bill to the Legislative Council for vetting in June 2009. A Bill Committee has been set up to scrutinize the details of the Bill. The HKG expects the Bill to be passed in 2010. Its enactment would enable the HKG to implement the Biosafety Protocol.

The HKG first announced its intention to enact a new legislation in order to incorporate the Cartagena Protocol on Biosafety requirements in 2003. The Environment Bureau takes the lead on the implementation of the Biosafety Protocol. While it is a policy bureau, the technical responsibility lies with the Agriculture, Fisheries and Conservation Department (AFCD). AFCD is primarily responsible to provide infrastructure support services to promote agricultural production and sustainable development of agriculture and fisheries in Hong Kong.

Hong Kong at present is not a party of the Convention on Biological Diversity and the Cartagena Protocol on Biosafety. As Hong Kong is a Special Administrative Region of the People's Republic of China (PRC), the application of international agreements to Hong Kong for agreements to which the PRC is a party will be decided by the PRC in accordance with the circumstances and needs of Hong Kong, after seeking the views of the HKG. The PRC has been a party to the Convention and the Protocol since 1993 and 2005 respectively. The HKG has obtained the agreement-in-principle of China to extend the application of both the Convention and the Protocol to Hong Kong when it is adequately prepared. The HKG indicated that subject to the passage of the proposed legislation through the Legislative Council, and upon completion of other necessary preparatory work, the HKG will request the PRC for the extension of both the Convention and the Protocol.

The main aspects of the proposed legislation are given below.

- No person should release or import any LMOs for the purpose of releasing it, into the environment unless it is an approved LMO listed in a register. This restriction would not apply to LMOs in transit, LMOs for direct use as food or feed, or for processing (FFP), and LMOs that are pharmaceuticals for humans.

- Approval of any LMOs for release into the environment would be obtained from the Director of AFCD. Applications must be accompanied by a risk assessment report on the adverse effects of the LMOs.

- An exporter in Hong Kong would be required to send a notification to the authority of the place of import and obtain its prior consent for exporting an LMO to the place for release into its environment. This requirement would not apply to LMOs in transit, LMOs for direct use as FFP and LMOs that are pharmaceuticals for humans. It also would not apply if the place of import does not impose any notification or prior consent requirement.

- AFCD will establish a public register containing information on applications received, decisions made, exemptions granted, and any other information relating to the enforcement of the legislation, including the risk assessment reports received.

- The proposed legislation will provide authorized officers with enforcement powers such as taking samples, carrying out tests, disposing seized products.

- The proposed legislation provides a 6-month transition period to the trade for adjusting to the changes after the enactment of the legislation. During the transition period, the maintenance of LMOs that have been released into the environment before the commencement date will not be prohibited. However, such activity has to be reported to AFCD or an application for release-into-environment approval has to be submitted during that period.

- The proposed legislation provides authorized officials with the authority to make subsidiary regulations pertaining to the documentation requirements for the import and export of all LMOs. (A government paper revealed that information required will be common name, scientific name of the LMOs, and its transformation event code. If the LMOs are for contained use or re-export purposes, the safe handling and storage requirements, if any, have to be specified on documents. However, there is no specific requirement regarding the form of documentation accompanying LMO shipments. The use of existing documents such as commercial invoice will be sufficient as long as the required information are stated on .)

There are no labeling requirements for any LMOs under the proposed legislation.

The proposed legislation and its legislative progress could be downloaded at the following link: http://www.legco.gov.hk/english/index.htm

Labeling of Biotech Products - Voluntary Labeling Approach

The Food and Health Bureau is the policy bureau responsible for the policy direction over biotech foods. Its executive arm, the Food and Environmental Hygiene Department (FEHD), is the

regulatory department for food safety through the Center for Food Safety.

There is no legislation for mandatory labeling for biotech foods or feeds. The FEHD released the guidelines for voluntary labeling of biotech foods in 2006 in order to answer the public's call for consumers' right to make informed choices. In 2008, the HKG announced that there is no need for a mandatory labeling law in Hong Kong based on an evaluation exercise of the voluntary labeling scheme. The HKG said they are not adopting a mandatory scheme because currently there is no international consensus on mandatory labeling. Their declared position is to closely monitor international development on this issue and to promote the voluntary guidelines to the trade for more widespread adoption.

The guidelines were formulated by a working group established under the Center for Food Safety, with members coming from various sectors including manufacturing, wholesale, retail, consumer groups and government departments. The guidelines are advisory in nature and do not have any legal effect. Adoption is entirely voluntary and is not binding. The guidelines apply to prepackaged food.

The guidelines are based on the following four principals:

- The labeling of biotech food will comply with the existing food legislation.
- The threshold level applied in the guidelines for labeling purpose is 5 percent, in respect of individual food ingredient.
- Additional declaration on the food label is recommended when significant modifications of the food, e.g. composition, nutrition value, level of anti-nutritional factors, natural toxicant, presence of allergen, intended use, introduction of an animal gene, etc, have taken place.
- Negative labeling is not recommended.

As the guidelines are voluntary, U.S. food exports should not be affected if they choose not to have any biotech labeling. However, it should be noted that the HKG does not encourage negative labeling when no biotech counterparts of the respective products ever exist. Also, the HKG does not encourage negative labeling using very definite terms such as:

- GMO free,
- Free from GM ingredients, etc

For products with such definite negative labeling, the government may take the initiative to test the products against GM ingredients and a zero tolerance will be adopted for testing purposes. If products are found to have misleading labeling, a retailer may be subject to prosecution under Section 61 – False Labeling and Advertisement of Food or Drugs of Chapter 132 Public Health and Municipal Services Ordinance. (Available at http://www.legislation.gov.hk/eng/home.htm)

If the trade chooses to apply negative labeling, the government advises to use less definite terms such as "sourced from non-GM sources" (which contains less than 5 percent of GM content) and to

have documentation to substantiate such declaration.

For more details, please refer to Gain Report HK#6026.

After a year of implementing the voluntary system, the HKG conducted a survey to assess the effectiveness of the voluntary scheme in 2007. The evaluation result showed that all the samples indicating biotech status carried negative labels and the majority of the negative labels are backed up by documentary proof. Also, for the samples subject to laboratory testing, all tested samples bearing negative labels did not contain any detectable biotech material or specific biotech events.

Section V. Marketing:

HKG's green groups, some consumer organizations and a few Legislative Council (Legco) members have been advocating for mandatory labeling of biotech foods for many years. Their rationale is based on consumers' "right to know". Food safety or science is not their key argument. They also expressed doubts whether the existing voluntary labeling is effectively implemented by the trade. Lobbying by green groups and consumer organizations has gained support of certain Legco members. In January 2000, Legco adopted a motion to "draw on the experience of most member states of the European Union and expeditiously legislate for a labeling system" and to "conduct strict examinations and tests" on biotech foods. In June 2003, Legco passed a motion calling on the government to expeditiously establish a "voluntary first, and then mandatory" approach to a labeling system for biotech foods. However, the results of motion are not binding for the HKG.

The food industry has generally opposed to mandatory labeling of biotech foods on the grounds that it would limit the choices of consumers, reduce variety of food supplies to Hong Kong and add burden to consumers and the industry alike. Hong Kong's retailers have said they would not import any products that carried a GM label. They believe that consumers will not choose GM products when there are other choices available.

On the whole, Hong Kong consumers are not concerned about foods containing biotech ingredients. There have not been any strong actions in the public urging the HKG to adopt mandatory labeling for biotech foods in recent years. Prices and nutritional values are of bigger concern in general. However, local food processors would specify the use of non-biotech soybeans particularly if their products are exported overseas.

Section VI. Capacity Building and Outreach:

ATO believes that educating HKG officials, legislators, educators and media on the science-based principles and consumer benefits of biotechnology is the most effective way to keep biotech labeling voluntary. Realizing the need of dispelling the myth of biotechnology in Hong Kong, ATO launched a biotech outreach program in 2008 educating relevant stakeholders with a science-based approach on biotechnology.

ATO invited Dr. Wayne Parrott, Professor of Plant Genetics at the University of Georgia, to give a series of five biotech lectures to different audiences which reached nearly 1,200 people. Dr. Parrott's presentation was geared to a lay audience. To achieve our objective of providing a science-based introduction of GM foods to relevant stakeholders, we successfully included in our audience government officials who are in charge of food safety and labeling, including those following the Cartagena Protocol, and developing curriculum for secondary schools and responsible to attract foreign investments in Hong Kong. Through this outreach activity, Hong Kong's key retailers, traders, importers and food manufactures were also educated on the merits and scientific development of GM foods. Included on our participant lists were teachers and students from secondary schools in Hong Kong and Macao. Educators were provided with a copy of the presentation, to us as a resource for teaching.

A senior government official who directs HK's food risk assessments attended the state-funded outreach program and commented that this lecture on biotechnology was the best he has ever heard.